

DEC 28 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EDUARDO AGUILAR CAMACHO,

Defendant - Appellant.

No. 06-10258

D.C. No. CR-99-00129-EJG

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Edward J. Garcia, District Judge, Presiding

Submitted December 3, 2007^{**}

Before: GOODWIN, WALLACE and FISHER, Circuit Judges.

Eduardo Aguilar Camacho appeals from the district court's determination, upon limited remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2003) (en banc), that it would not have imposed a materially different sentence

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

under advisory Guidelines. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Camacho's contention that his right to due process was violated because the district court conducted his *Ameline* resentencing hearing without his presence is foreclosed by *United States v. Silva*, 472 F.3d 683, 686 (9th Cir. 2007).

Accordingly, the district court's order is affirmed.

AFFIRMED.